

## REMARKS

Claims 32-56 are all the claims pending in the application, with claims 32, 40, and 47 being the only independent claims.

The newly submitted claims are presented to claim disclosed embodiments more completely, and have not been submitted in response to any rejection or objection. No new matter has been added. By way of non-limiting example, support for the newly added claims may be found in, for example, paras. [0026] – [0029], and [0033] of the published application.

Applicant notes with appreciation that the IDS papers have been signed and acknowledged by the Examiner, and that the certified copies of the priority documents have been received.

The drawings have been objected to as not showing the “buffer usage” aspect previously present in the claims. The affected claims have been cancelled rendering the objection moot. However, Applicant notes that new claims 37 and 44 include an “RCL buffer.” This aspect may be found in, for example, Fig. 4, reference numeral 213.

Claims 13, 19, and 28 have been either objected, or rejected under 35 U.S.C. § 112, second paragraph. However, these claims have been cancelled rendering these objections and rejections moot.

In addition, the rejection to claims 1-31 under 35 U.S.C. §102(e) as being anticipated by Shin (U.S. 6,640,105) are also rendered moot since these claims have been cancelled by the present amendment. Although the newly submitted claims 32-56 have not been formally rejected by the Examiner, Applicant provides the following comments relating to the patentability of these new claims.

### **“Buffer occupancy”**

There are significant differences between the methods disclosed in the Shin patent and the claimed invention. First of all, Applicant is well aware of the Shin patent, which is assigned to the assignee of the present application. With regard to claim 32, the claimed method includes “receiving each buffer occupancy from a radio link control (RLC) layer for each logical channel related to the transport channel.”

Shin utilizes an entirely different method for measuring traffic volume and reporting to the RRC layer. For instance, Shin provides “first, a sum of data existing at the transport RLC buffers 1, 2, and 3, and the transport buffers 4, and 5 corresponding to the traffic volume transported through the CCTrCH of the PHY is used. In other words, a sum of data existing at buffers of all transport channels and all data existing at buffers of logical channels, multiplexed by the CCTrCH, is used.” (Col. 5, lines 24-31). Shin is concerned with data such that it utilizes the “sum of data existing at buffers,” whereas claim 32 recites “buffer occupancy.” Simply put, Shin relates to data at the buffer, and claim 32 is directed to buffer occupancy (not the actual data in the buffer).

### **“Protocol data units (PDUs)”**

Another difference is that claim 32 recites “buffer occupancy . . . including an amount of control protocol data units (PDUs).” This feature is not taught or suggested by Shin.

Applicant first notes that the present Action indicated that the identified limitation is disclosed in Shin at col. 5, line 9. (Action, pg. 7, lines 1-3). The Action specifically noted that Shin provides “data inclusive of the respective buffer states,” and that this passage of Shin teaches the PDU limitation.

However, Applicant respectfully asserts that “the respective buffer states” of Shin is different from the “amount of control PDUs” such that the term “data” in Shin means the data itself that is stored in the RLC buffers, and “buffer states” means the amount of data stored in the RLC buffers (Col. 5, lines 32-37). Accordingly, Applicant respectfully asserts that Shin fails to teach or suggest the above-identified “PDU” limitation of claim 32.

Applicant therefore submits that independent claim 32 is patentable over Shin for at least the reasons identified above. Independent claims 40 and 47 contain language similar to claim 32, and therefore these claims are also believed to be patentable over Shin for reasons similar to those presented above in conjunction with claim 32. Dependent claims 33-39, 41-46, and 48-56 are also patentable at least by virtue of their dependence upon their respective independent claims.

### **CONCLUSION**

In light of the above remarks, Applicant submits that the present Amendment places all claims of the present application in condition for allowance. Reconsideration of the application is requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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Date: June 2, 2006

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